

1 A bill to be entitled
2 An act relating to guardianship; providing directives
3 to the Division of Law Revision and Information;
4 amending s. 744.1012, F.S.; revising legislative
5 intent; renumbering s. 744.201, F.S., relating to
6 domicile of ward; transferring, renumbering, and
7 amending s. 744.202, F.S.; conforming a cross-
8 reference; renumbering s. 744.2025, F.S., relating to
9 change of ward's residence; renumbering and amending
10 s. 744.7021, F.S.; renaming the Statewide Public
11 Guardianship Office to the Office of Public and
12 Professional Guardians; revising the duties and
13 responsibilities of the executive director for the
14 Office of Public and Professional Guardians;
15 conforming provisions to changes made by the act;
16 renumbering and amending s. 744.1083, F.S.; providing
17 that a guardian has standing to seek judicial review
18 pursuant to ch. 120, F.S., if his or her registration
19 is denied; removing a provision authorizing the
20 executive director to suspend or revoke the
21 registration of a guardian who commits certain
22 violations; removing the requirement of written
23 notification to the chief judge of the judicial
24 circuit upon the executive director's denial,
25 suspension, or revocation of a registration;
26 conforming provisions to changes made by the act;

27 conforming a cross-reference; renumbering and amending
28 s. 744.1085, F.S.; conforming provisions to changes
29 made by the act; removing an obsolete provision;
30 conforming a cross-reference; creating s. 744.2004,
31 F.S.; requiring the Office of Public and Professional
32 Guardians to establish certain procedures by a
33 specified date; requiring the office to establish
34 disciplinary proceedings, conduct hearings, and take
35 administrative action pursuant to ch. 120, F.S.;

36 requiring the Department of Elderly Affairs to provide
37 certain written information in disciplinary
38 proceedings; requiring that certain findings and
39 recommendations be made within a certain time;
40 requiring the office, under certain circumstances, to
41 make a specified recommendation to a court of
42 competent jurisdiction; requiring the office to report
43 determination or suspicion of abuse to the Department
44 of Children and Families' central abuse hotline under
45 specified circumstances; requiring the Department of
46 Elderly Affairs to adopt rules; creating s. 744.20041,
47 F.S.; providing grounds for discipline of professional
48 guardians by the Office of Public and Professional
49 Guardians; providing penalties; providing procedures
50 for determining which disciplinary action is
51 appropriate; providing legislative intent and purpose;
52 authorizing the office to seek an injunction or a writ

53 of mandamus against certain persons; providing for
54 permanent revocation of a professional guardian's
55 registration; providing procedures for suspension and
56 revocation of such registrations; directing the office
57 to adopt rules; renumbering and amending s. 744.344,
58 F.S.; making technical changes; renumbering and
59 amending s. 744.703, F.S.; conforming provisions to
60 changes made by the act; renumbering ss. 744.704 and
61 744.705, F.S., relating to the powers and duties of
62 public guardians and the costs of public guardians,
63 respectively; renumbering and amending ss. 744.706 and
64 744.707, F.S.; conforming provisions to changes made
65 by the act; renumbering s. 744.709, F.S., relating to
66 surety bonds; renumbering and amending s. 744.708,
67 F.S.; conforming provisions to changes made by the
68 act; renumbering and amending s. 744.7081, F.S.;
69 requiring that the Office of Public and Professional
70 Guardians be provided financial audits upon its
71 request as part of an investigation; conforming
72 provisions to changes made by the act; renumbering and
73 amending s. 744.7082, F.S.; conforming provisions to
74 changes made by the act; renumbering and amending s.
75 744.712, F.S.; providing legislative intent;
76 conforming provisions; renumbering and amending ss.
77 744.713, 744.714, and 744.715, F.S.; conforming
78 provisions to changes made by the act; amending s.

79 744.3135, F.S.; requiring the office to adopt rules by
 80 a certain date; conforming provisions to changes made
 81 by the act; repealing s. 744.701, F.S., relating to a
 82 short title; repealing s. 744.702, F.S., relating to
 83 legislative intent; repealing s. 744.7101, F.S.,
 84 relating to a short title; repealing s. 744.711, F.S.,
 85 relating to legislative findings and intent; amending
 86 ss. 400.148 and 744.331, F.S.; conforming provisions
 87 to changes made by the act; amending ss. 20.415,
 88 415.1102, 744.309, and 744.524, F.S.; conforming
 89 cross-references; making technical changes; providing
 90 an appropriation and authorizing positions; providing
 91 an effective date.

92
 93 Be It Enacted by the Legislature of the State of Florida:

94
 95 Section 1. The Division of Law Revision and Information is
 96 directed to add ss. 744.1096-744.1098, Florida Statutes, created
 97 by this act, to part I of chapter 744, Florida Statutes.

98 Section 2. The Division of Law Revision and Information is
 99 directed to rename part II of chapter 744, Florida Statutes,
 100 entitled "VENUE," as "PUBLIC AND PROFESSIONAL GUARDIANS,"
 101 consisting of ss. 744.2001-744.2109, Florida Statutes.

102 Section 3. The Division of Law Revision and Information is
 103 directed to remove part IX of chapter 744, Florida Statutes.

104 Section 4. Section 744.1012, Florida Statutes, is amended

105 to read:

106 744.1012 Legislative intent.—The Legislature finds that:

107 (1) ~~That~~ Adjudicating a person totally incapacitated and
108 in need of a guardian deprives such person of all her or his
109 civil and legal rights and that such deprivation may be
110 unnecessary.

111 (2) ~~The Legislature further finds that~~ It is desirable to
112 make available the least restrictive form of guardianship to
113 assist persons who are only partially incapable of caring for
114 their needs and that alternatives to guardianship and less
115 restrictive means of assistance, including, but not limited to,
116 guardian advocates, should always be explored before an
117 individual's rights are removed through an adjudication of
118 incapacity.

119 (3) By recognizing that every individual has unique needs
120 and differing abilities, ~~the Legislature declares that~~ it is the
121 purpose of this act to promote the public welfare by
122 establishing a system that permits incapacitated persons to
123 participate as fully as possible in all decisions affecting
124 them; that assists such persons in meeting the essential
125 requirements for their physical health and safety, in protecting
126 their rights, in managing their financial resources, and in
127 developing or regaining their abilities to the maximum extent
128 possible; and that accomplishes these objectives through
129 providing, in each case, the form of assistance that least
130 interferes with the legal capacity of a person to act in her or

131 his own behalf. This act shall be liberally construed to
132 accomplish this purpose.

133 (4) Private guardianship may be inadequate when there is
134 no willing and responsible family member or friend, other
135 person, bank, or corporation available to serve as guardian for
136 an incapacitated person, and such person does not have adequate
137 income or wealth for the compensation of a private guardian.

138 (5) Through the establishment of the Office of Public and
139 Professional Guardians, the Legislature intends to permit the
140 establishment of offices of public guardians for the purpose of
141 providing guardianship services for incapacitated persons when
142 no private guardian is available.

143 (6) A public guardian will be provided only to those
144 persons whose needs cannot be met through less restrictive means
145 of intervention. A public guardian may also serve in the
146 capacity of a limited guardian under s. 744.102, or guardian
147 advocate under s. 393.12, when the public guardian is the
148 guardian of last resort as described in subsection (4).

149 Section 5. Section 744.201, Florida Statutes, is
150 renumbered as section 744.1096, Florida Statutes.

151 Section 6. Section 744.202, Florida Statutes, is
152 renumbered as section 744.1097, Florida Statutes, and subsection
153 (3) of that section is amended, to read:

154 744.1097 744.202 Venue.—

155 (3) When the residence of an incapacitated person is
156 changed to another county, the guardian shall petition to have

157 the venue of the guardianship changed to the county of the
 158 acquired residence, except as provided in s. 744.1098 ~~s.~~
 159 ~~744.2025~~.

160 Section 7. Section 744.2025, Florida Statutes, is
 161 renumbered as section 744.1098, Florida Statutes.

162 Section 8. Section 744.7021, Florida Statutes, is
 163 renumbered as section 744.2001, Florida Statutes, and amended to
 164 read:

165 744.2001 ~~744.7021~~ ~~Statewide Public Guardianship Office of~~
 166 Public and Professional Guardians.—There is ~~hereby~~ created the
 167 ~~Statewide Public Guardianship Office of~~ Public and Professional
 168 Guardians within the Department of Elderly Affairs.

169 (1) The Secretary of Elderly Affairs shall appoint the
 170 executive director, who shall be the head of the ~~Statewide~~
 171 ~~Public Guardianship Office of~~ Public and Professional Guardians.
 172 The executive director must be a member of The Florida Bar,
 173 knowledgeable of guardianship law and of the social services
 174 available to meet the needs of incapacitated persons, shall
 175 serve on a full-time basis, and shall personally, or through a
 176 representative ~~representatives~~ of the office, carry out the
 177 purposes and functions of the ~~Statewide Public Guardianship~~
 178 Office of Public and Professional Guardians in accordance with
 179 state and federal law. The executive director shall serve at the
 180 pleasure of and report to the secretary.

181 (2) The executive director shall, within available
 182 resources:7

183 (a) Have oversight responsibilities for all public and
184 professional guardians.

185 (b) Establish standards of practice for public and
186 professional guardians by rule, in consultation with
187 professional guardianship associations and other interested
188 stakeholders, no later than October 1, 2016. The executive
189 director shall provide a draft of the standards to the Governor,
190 the Legislature, and the secretary for review by August 1, 2016.

191 (c) Review and approve the standards and criteria for the
192 education, registration, and certification of public and
193 professional guardians in Florida.

194 (3) The executive director's oversight responsibilities of
195 professional guardians must be finalized by October 1, 2016, and
196 shall include, but are not limited to:

197 (a) Developing and implementing a monitoring tool to
198 ensure compliance of professional guardians with the standards
199 of practice established by the Office of Public and Professional
200 Guardians. This monitoring tool may not include a financial
201 audit as required by the clerk of the circuit court under s.
202 744.368.

203 (b) Developing procedures, in consultation with
204 professional guardianship associations and other interested
205 stakeholders, for the review of an allegation that a
206 professional guardian has violated the standards of practice
207 established by the Office of Public and Professional Guardians
208 governing the conduct of professional guardians.

209 (c) Establishing disciplinary proceedings, conducting
 210 hearings, and taking administrative action pursuant to chapter
 211 120.

212 (4) The executive director's oversight responsibilities of
 213 public guardians shall include, but are not limited to:

214 (a) Reviewing ~~The executive director shall review~~ the
 215 current public guardian programs in Florida and other states.

216 (b) Developing ~~The executive director,~~ in consultation
 217 with local guardianship offices and other interested
 218 stakeholders, shall develop statewide performance measures ~~and~~
 219 ~~standards.~~

220 (c) Reviewing ~~The executive director shall review~~ the
 221 various methods of funding public guardianship programs, the
 222 kinds of services being provided by such programs, and the
 223 demographics of the wards. In addition, the executive director
 224 shall review and make recommendations regarding the feasibility
 225 of recovering a portion or all of the costs of providing public
 226 guardianship services from the assets or income of the wards.

227 (d) By January 1 of each year, providing ~~the executive~~
 228 ~~director shall provide~~ a status report and ~~provide further~~
 229 recommendations to the secretary which ~~that~~ address the need for
 230 public guardianship services and related issues.

231 (e) Developing a guardianship training program curriculum
 232 that may be offered to all guardians, whether public or private.

233 (5) ~~(e)~~ The executive director may provide assistance to
 234 local governments or entities in pursuing grant opportunities.

235 The executive director shall review and make recommendations in
 236 the annual report on the availability and efficacy of seeking
 237 Medicaid matching funds. The executive director shall diligently
 238 seek ways to use existing programs and services to meet the
 239 needs of public wards.

240 ~~(f) The executive director, in consultation with the~~
 241 ~~Florida Guardianship Foundation, shall develop a guardianship~~
 242 ~~training program curriculum that may be offered to all guardians~~
 243 ~~whether public or private.~~

244 (6)~~(3)~~ The executive director may conduct or contract for
 245 demonstration projects authorized by the Department of Elderly
 246 Affairs, within funds appropriated or through gifts, grants, or
 247 contributions for such purposes, to determine the feasibility or
 248 desirability of new concepts of organization, administration,
 249 financing, or service delivery designed to preserve the civil
 250 and constitutional rights of persons of marginal or diminished
 251 capacity. Any gifts, grants, or contributions for such purposes
 252 shall be deposited in the Department of Elderly Affairs
 253 Administrative Trust Fund.

254 Section 9. Section 744.1083, Florida Statutes, is
 255 renumbered as section 744.2002, Florida Statutes, subsections
 256 (1) through (5) of that section are amended, and subsections (7)
 257 and (10) of that section are republished, to read:

258 744.2002 ~~744.1083~~ Professional guardian registration.—

259 (1) A professional guardian must register with the
 260 ~~Statewide Public Guardianship Office~~ of Public and Professional

261 Guardians established in part II ~~IX~~ of this chapter.

262 (2) Annual registration shall be made on forms furnished
263 by the ~~Statewide Public Guardianship~~ Office of Public and
264 Professional Guardians and accompanied by the applicable
265 registration fee as determined by rule. The fee may not exceed
266 \$100.

267 (3) Registration must include the following:

268 (a) Sufficient information to identify the professional
269 guardian, as follows:

270 1. If the professional guardian is a natural person, the
271 name, address, date of birth, and employer identification or
272 social security number of the person.

273 2. If the professional guardian is a partnership or
274 association, the name, address, and employer identification
275 number of the entity.

276 (b) Documentation that the bonding and educational
277 requirements of s. 744.2003 ~~s. 744.1085~~ have been met.

278 (c) Sufficient information to distinguish a guardian
279 providing guardianship services as a public guardian,
280 individually, through partnership, corporation, or any other
281 business organization.

282 (4) Prior to registering a professional guardian, the
283 ~~Statewide Public Guardianship~~ Office of Public and Professional
284 Guardians must receive and review copies of the credit and
285 criminal investigations conducted under s. 744.3135. The credit
286 and criminal investigations must have been completed within the

287 previous 2 years.

288 (5) The executive director of the office may deny
289 registration to a professional guardian if the executive
290 director determines that the guardian's proposed registration,
291 including the guardian's credit or criminal investigations,
292 indicates that registering the professional guardian would
293 violate any provision of this chapter. If a guardian's proposed
294 registration is denied, the guardian has standing to seek
295 judicial review of the denial pursuant to chapter 120 ~~If a~~
296 ~~guardian who is currently registered with the office violates a~~
297 ~~provision of this chapter, the executive director of the office~~
298 ~~may suspend or revoke the guardian's registration. If the~~
299 ~~executive director denies registration to a professional~~
300 ~~guardian or suspends or revokes a professional guardian's~~
301 ~~registration, the Statewide Public Guardianship Office must send~~
302 ~~written notification of the denial, suspension, or revocation to~~
303 ~~the chief judge of each judicial circuit in which the guardian~~
304 ~~was serving on the day of the office's decision to deny,~~
305 ~~suspend, or revoke the registration.~~

306 (7) A trust company, a state banking corporation or state
307 savings association authorized and qualified to exercise
308 fiduciary powers in this state, or a national banking
309 association or federal savings and loan association authorized
310 and qualified to exercise fiduciary powers in this state, may,
311 but is not required to, register as a professional guardian
312 under this section. If a trust company, state banking

313 corporation, state savings association, national banking
 314 association, or federal savings and loan association described
 315 in this subsection elects to register as a professional guardian
 316 under this subsection, the requirements of subsections (3) and
 317 (4) do not apply and the registration must include only the
 318 name, address, and employer identification number of the
 319 registrant, the name and address of its registered agent, if
 320 any, and the documentation described in paragraph (3)(b).

321 (10) A state college or university or an independent
 322 college or university that is located and chartered in Florida,
 323 that is accredited by the Commission on Colleges of the Southern
 324 Association of Colleges and Schools or the Accrediting Council
 325 for Independent Colleges and Schools, and that confers degrees
 326 as defined in s. 1005.02(7) may, but is not required to,
 327 register as a professional guardian under this section. If a
 328 state college or university or independent college or university
 329 elects to register as a professional guardian under this
 330 subsection, the requirements of subsections (3) and (4) do not
 331 apply and the registration must include only the name, address,
 332 and employer identification number of the registrant.

333 Section 10. Section 744.1085, Florida Statutes, is
 334 renumbered as section 744.2003, Florida Statutes, subsections
 335 (3), (6), and (9) of that section are amended, and subsection
 336 (8) of that section is republished, to read:

337 744.2003 ~~744.1085~~ Regulation of professional guardians;
 338 application; bond required; educational requirements.—

339 (3) Each professional guardian defined in s. 744.102(17)
 340 and public guardian must receive a minimum of 40 hours of
 341 instruction and training. Each professional guardian must
 342 receive a minimum of 16 hours of continuing education every 2
 343 calendar years after the year in which the initial 40-hour
 344 educational requirement is met. The instruction and education
 345 must be completed through a course approved or offered by the
 346 ~~Statewide Public Guardianship Office~~ of Public and Professional
 347 Guardians. The expenses incurred to satisfy the educational
 348 requirements prescribed in this section may not be paid with the
 349 assets of any ward. This subsection does not apply to any
 350 attorney who is licensed to practice law in this state or an
 351 institution acting as guardian under s. 744.2002(7).

352 (6) ~~After July 1, 2005,~~ Each professional guardian is
 353 ~~shall be~~ required to demonstrate competency to act as a
 354 professional guardian by taking an examination approved by the
 355 Department of Elderly Affairs.

356 (a) The Department of Elderly Affairs shall determine the
 357 minimum examination score necessary for passage of guardianship
 358 examinations.

359 (b) The Department of Elderly Affairs shall determine the
 360 procedure for administration of the examination.

361 (c) The Department of Elderly Affairs or its contractor
 362 shall charge an examination fee for the actual costs of the
 363 development and the administration of the examination. The
 364 examination fee for a guardian may ~~not~~ ~~to~~ exceed \$500.

365 (d) The Department of Elderly Affairs may recognize
366 passage of a national guardianship examination in lieu of all or
367 part of the examination approved by the Department of Elderly
368 Affairs, except that all professional guardians must take and
369 pass an approved examination section related to Florida law and
370 procedure.

371 (8) The Department of Elderly Affairs shall waive the
372 examination requirement in subsection (6) if a professional
373 guardian can provide:

374 (a) Proof that the guardian has actively acted as a
375 professional guardian for 5 years or more; and

376 (b) A letter from a circuit judge before whom the
377 professional guardian practiced at least 1 year which states
378 that the professional guardian had demonstrated to the court
379 competency as a professional guardian.

380 (9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint
381 any professional guardian who is ~~has~~ not registered by the
382 Office of Public and Professional Guardians ~~met the requirements~~
383 ~~of this section and s. 744.1083.~~

384 Section 11. Section 744.2004, Florida Statutes, is created
385 to read:

386 744.2004 Complaints; disciplinary proceedings; penalties;
387 enforcement.—

388 (1) By October 1, 2016, the Office of Public and
389 Professional Guardians shall establish procedures to:

390 (a) Review and, if determined legally sufficient,

391 investigate any complaint that a professional guardian has
392 violated the standards of practice established by the Office of
393 Public and Professional Guardians governing the conduct of
394 professional guardians. A complaint is legally sufficient if it
395 contains ultimate facts that show a violation of a standard of
396 practice by a professional guardian has occurred.

397 (b) Initiate an investigation no later than 10 business
398 days after the Office of Public and Professional Guardians
399 receives a complaint.

400 (c) Complete and provide initial investigative findings
401 and recommendations, if any, to the professional guardian and
402 the person who filed the complaint within 60 days of receipt.

403 (d) Obtain supporting information or documentation to
404 determine the legal sufficiency of a complaint.

405 (e) Interview a ward, family member, or interested party
406 to determine the legal sufficiency of a complaint.

407 (f) Dismiss any complaint if, at any time after legal
408 sufficiency is determined, it is found there is insufficient
409 evidence to support the allegations contained in the complaint.

410 (g) Coordinate, to the greatest extent possible, with the
411 clerks of court to avoid duplication of duties with regard to
412 the financial audits prepared by the clerks pursuant to s.
413 744.368.

414 (2) The Office of Public and Professional Guardians shall
415 establish disciplinary proceedings, conduct hearings, and take
416 administrative action pursuant to chapter 120. Disciplinary

417 actions may include, but are not limited to, requiring a
418 professional guardian to participate in additional educational
419 courses provided or approved by the Office of Public and
420 Professional Guardians, imposing additional monitoring by the
421 office of the guardianships to which the professional guardian
422 is appointed, and suspension or revocation of a professional
423 guardian's registration.

424 (3) In any disciplinary proceeding that may result in the
425 suspension or revocation of a professional guardian's
426 registration, the Department of Elderly Affairs shall provide
427 the professional guardian and the person who filed the
428 complaint:

429 (a) A written explanation of how an administrative
430 complaint is resolved by the disciplinary process.

431 (b) A written explanation of how and when the person may
432 participate in the disciplinary process.

433 (c) A written notice of any hearing before the Division of
434 Administrative Hearings at which final agency action may be
435 taken.

436 (4) If the office makes a final determination to suspend
437 or revoke the professional guardian's registration, it must
438 provide such determination to the court of competent
439 jurisdiction for any guardianship case to which the professional
440 guardian is currently appointed.

441 (5) If the office determines or has reasonable cause to
442 suspect that a vulnerable adult has been or is being abused,

443 neglected, or exploited as a result of a filed complaint or
 444 during the course of an investigation of a complaint, it shall
 445 immediately report such determination or suspicion to the
 446 central abuse hotline established and maintained by the
 447 Department of Children and Families pursuant to s. 415.103.

448 (6) By October 1, 2016, the Department of Elderly Affairs
 449 shall adopt rules to implement the provisions of this section.

450 Section 12. Section 744.20041, Florida Statutes, is
 451 created to read:

452 744.20041 Grounds for discipline; penalties; enforcement.-

453 (1) It is the intent of the Legislature that the
 454 disciplinary guidelines in this section specify a meaningful
 455 range of designated penalties based upon the severity and
 456 repetition of specific offenses and that minor violations be
 457 distinguished from those which endanger the health, safety, or
 458 welfare of the ward or the public; that such guidelines provide
 459 reasonable and meaningful notice to the public of likely
 460 penalties which may be imposed for prohibited conduct; and that
 461 such penalties be consistently applied by the Office of Public
 462 and Professional Guardians.

463 (2) The purpose of this section is to facilitate uniform
 464 discipline for those actions made punishable under this section
 465 and, to this end, a reference to this section constitutes a
 466 general reference under the doctrine of incorporation by
 467 reference.

468 (3) The following acts by a professional guardian

469 constitute grounds for which the disciplinary actions specified
470 in subsection (4) may be taken:

471 (a) Making misleading, deceptive, or fraudulent
472 representations in or related to the practice of guardianship.

473 (b) Violating any rule governing guardians or
474 guardianships adopted by the Office of Public and Professional
475 Guardians.

476 (c) Being convicted or found guilty of, or entering a plea
477 of guilty or nolo contendere to, regardless of adjudication, a
478 crime in any jurisdiction which relates to the practice of, or
479 the ability to practice as, a professional guardian.

480 (d) Failing to comply with the educational course
481 requirements contained in s. 744.2003.

482 (e) Having a registration, a license, or the authority to
483 practice a regulated profession revoked, suspended, or otherwise
484 acted against, including the denial of registration or
485 licensure, by the registering or licensing authority of any
486 jurisdiction, including its agencies or subdivisions, for a
487 violation of Florida law. The registering or licensing
488 authority's acceptance of a relinquishment of registration or
489 licensure, stipulation, consent order, or other settlement,
490 offered in response to or in anticipation of the filing of
491 charges against the registration or license, shall be construed
492 as action against the registration or license.

493 (f) Knowingly filing a false report or complaint with the
494 Office of Public and Professional Guardians against another

495 guardian.

496 (g) Attempting to obtain, obtaining, attempting to renew,
497 or renewing a registration or license to practice a profession
498 by bribery, by fraudulent misrepresentation, or as a result of
499 an error by the Office of Public and Professional Guardians
500 which error is known and not disclosed to the Office of Public
501 and Professional Guardians.

502 (h) Failing to report to the Office of Public and
503 Professional Guardians any person who the professional guardian
504 knows is in violation of this chapter or the rules of the Office
505 of Public and Professional Guardians.

506 (i) Failing to perform any statutory or legal obligation
507 placed upon a professional guardian.

508 (j) Making or filing a report or record which the
509 professional guardian knows to be false, intentionally or
510 negligently failing to file a report or record required by state
511 or federal law, or willfully impeding or obstructing another
512 person's attempt to file a report or record required by state or
513 federal law. Such reports or records shall include only those
514 that are signed in the guardian's capacity as a professional
515 guardian.

516 (k) Using the position of guardian for the purpose of
517 financial gain by the guardian or for a third party other than
518 the funds awarded to the guardian by the court pursuant to s.
519 744.108.

520 (l) Violating a lawful order, or failing to comply with a

521 lawfully issued subpoena, of the Office of Public and
522 Professional Guardians.

523 (m) Improperly interfering with an investigation or
524 inspection authorized by statute, by rule, or with any
525 disciplinary proceeding.

526 (n) Using the guardian relationship to engage or attempt
527 to engage the ward, or an immediate family member or
528 representative of the ward, in verbal, written, electronic, or
529 physical sexual activity.

530 (o) Failing to report to the Office of Pubic and
531 Professional Guardians in writing within 30 days after being
532 convicted or found guilty of, or entering a plea of nolo
533 contendere to, regardless of adjudication, a crime in any
534 jurisdiction.

535 (p) Being unable to perform the functions of a guardian
536 with reasonable skill by reason of illness or use of alcohol,
537 drugs, narcotics, chemicals, or any other type of material or as
538 a result of any mental or physical condition.

539 (q) Failing to post and maintain a blanket fiduciary bond
540 pursuant to the requirements for such bond in s. 744.2003.

541 (r) Failing to maintain all records pertaining to a
542 guardianship for a period of time after the court has closed the
543 guardianship matter.

544 (s) Violating any provision of this chapter or any rules
545 adopted pursuant to this chapter.

546 (4) When the Office of Public and Professional Guardians

547 finds any professional guardian guilty of the grounds set forth
548 in subsection (3), it may enter an order imposing one or more of
549 the following penalties:

550 (a) Refusal to register an applicant for registration as a
551 professional guardian.

552 (b) Suspension or permanent revocation of a professional
553 guardian's registration.

554 (c) Issuance of a reprimand or letter of concern.

555 (d) Requirement that the professional guardian undergo
556 treatment, attend continuing education courses, submit to
557 reexamination, or satisfy any terms which are reasonably
558 tailored to the violations found.

559 (e) Requirement that the professional guardian pay
560 restitution of any funds obtained, disbursed, or obtained
561 through a violation of a statute, rule, or other legal authority
562 to a ward or the ward's estate, if applicable.

563 (f) Requirement that the professional guardian undergo
564 remedial education.

565 (5) In determining which disciplinary action is
566 appropriate, the Office of Public and Professional Guardians
567 must first consider what sanctions are necessary to safeguard
568 wards and protect the public. Only after those sanctions are
569 imposed may the Office of Public and Professional Guardians
570 consider and include in the order requirements designed to
571 mitigate the circumstances and rehabilitate the professional
572 guardian.

573 (6) The Office of Public and Professional Guardians shall
574 adopt by rule and periodically review the disciplinary
575 guidelines applicable to each ground for disciplinary action
576 which may be imposed by the Office of Public and Professional
577 Guardians pursuant to this chapter.

578 (7) The Office of Public and Professional Guardians shall
579 designate by rule possible mitigating and aggravating
580 circumstances, if applicable, and the variation and range of
581 penalties permitted for such circumstances.

582 (a) The administrative law judge, in recommending
583 penalties in any recommended order, must follow the disciplinary
584 guidelines established by the Office of Public and Professional
585 Guardians and must state in writing any mitigating or
586 aggravating circumstances upon which a recommended penalty is
587 based, if such circumstances cause the administrative law judge
588 to recommend a penalty other than that provided in the
589 disciplinary guidelines.

590 (b) A specific finding in the final order of mitigating or
591 aggravating circumstances shall allow the Office of Public and
592 Professional Guardians to impose a penalty other than that
593 provided in the disciplinary guidelines.

594 (8) In addition to, or in lieu of, any other remedy or
595 criminal prosecution, the Office of Public and Professional
596 Guardians may file a proceeding in the name of the state seeking
597 issuance of an injunction or a writ of mandamus against any
598 person who violates this chapter or a provision of law with

599 respect to professional guardians or the rules adopted pursuant
600 thereto.

601 (9) Notwithstanding any provision of chapter 120, if the
602 Office of Public and Professional Guardians determines that
603 revocation of a professional guardian's registration is the
604 appropriate penalty, the revocation shall be permanent.

605 (10) If the Office of Public and Professional Guardians
606 makes a final determination to suspend or revoke the
607 professional guardian's registration, it must provide the
608 determination to the court of competent jurisdiction for any
609 guardianship case to which the professional guardian is
610 currently appointed.

611 (11) The Office of Public and Professional Guardians shall
612 adopt rules to administer the requirements of this section.

613 Section 13. Section 744.344, Florida Statutes, is
614 transferred, renumbered as section 744.2005, Florida Statutes,
615 and amended to read:

616 744.2005 ~~744.344~~ Order of appointment.—

617 (1) The court may hear testimony on the question of who is
618 entitled to preference in the appointment of a guardian. Any
619 interested person may intervene in the proceedings.

620 (2) The order appointing a guardian must state the nature
621 of the guardianship as either plenary or limited. If limited,
622 the order must state that the guardian may exercise only those
623 delegable rights which have been removed from the incapacitated
624 person and specifically delegated to the guardian. The order

625 shall state the specific powers and duties of the guardian.

626 (3)~~(2)~~ The order appointing a guardian must be consistent
627 with the incapacitated person's welfare and safety, must be the
628 least restrictive appropriate alternative, and must reserve to
629 the incapacitated person the right to make decisions in all
630 matters commensurate with the person's ability to do so.

631 (4)~~(3)~~ If a petition for appointment of a guardian has
632 been filed, an order appointing a guardian must be issued
633 contemporaneously with the order adjudicating the person
634 incapacitated. The order must specify the amount of the bond to
635 be given by the guardian and must state specifically whether the
636 guardian must place all, or part, of the property of the ward in
637 a restricted account in a financial institution designated
638 pursuant to s. 69.031.

639 (5)~~(4)~~ If a petition for the appointment of a guardian has
640 not been filed or ruled upon at the time of the hearing on the
641 petition to determine capacity, the court may appoint an
642 emergency temporary guardian in the manner and for the purposes
643 specified in s. 744.3031.

644 (6)~~(5)~~ A plenary guardian shall exercise all delegable
645 rights and powers of the incapacitated person.

646 (7)~~(6)~~ A person for whom a limited guardian has been
647 appointed retains all legal rights except those that ~~which~~ have
648 been specifically granted to the guardian in the court's written
649 order.

650 Section 14. Section 744.703, Florida Statutes, is

651 renumbered as section 744.2006, Florida Statutes, and
652 subsections (1) and (6) of that section are amended, to read:

653 744.2006 ~~744.703~~ Office of Public and Professional
654 Guardians ~~guardian~~; appointment, notification.—

655 (1) The executive director of the ~~Statewide Public~~
656 ~~Guardianship~~ Office of Public and Professional Guardians, after
657 consultation with the chief judge and other circuit judges
658 within the judicial circuit and with appropriate advocacy groups
659 and individuals and organizations who are knowledgeable about
660 the needs of incapacitated persons, may establish, within a
661 county in the judicial circuit or within the judicial circuit,
662 one or more offices of public guardian and if so established,
663 shall create a list of persons best qualified to serve as the
664 public guardian, who have been investigated pursuant to s.
665 744.3135. The public guardian must have knowledge of the legal
666 process and knowledge of social services available to meet the
667 needs of incapacitated persons. The public guardian shall
668 maintain a staff or contract with professionally qualified
669 individuals to carry out the guardianship functions, including
670 an attorney who has experience in probate areas and another
671 person who has a master's degree in social work, or a
672 gerontologist, psychologist, registered nurse, or nurse
673 practitioner. A public guardian that is a nonprofit corporate
674 guardian under s. 744.309(5) must receive tax-exempt status from
675 the United States Internal Revenue Service.

676 (6) Public guardians who have been previously appointed by

677 a chief judge prior to the effective date of this act pursuant
 678 to this section may continue in their positions until the
 679 expiration of their term pursuant to their agreement. However,
 680 oversight of all public guardians shall transfer to the
 681 ~~Statewide Public Guardianship Office~~ of Public and Professional
 682 Guardians upon the effective date of this act. The executive
 683 director of the ~~Statewide Public Guardianship Office~~ of Public
 684 and Professional Guardians shall be responsible for all future
 685 appointments of public guardians pursuant to this act.

686 Section 15. Section 744.704, Florida Statutes, is
 687 renumbered as section 744.2007, Florida Statutes.

688 Section 16. Section 744.705, Florida Statutes, is
 689 renumbered as section 744.2008, Florida Statutes.

690 Section 17. Section 744.706, Florida Statutes, is
 691 renumbered as section 744.2009, Florida Statutes, and amended to
 692 read:

693 744.2009 ~~744.706~~ Preparation of budget.—Each public
 694 guardian, whether funded in whole or in part by money raised
 695 through local efforts, grants, or any other source or whether
 696 funded in whole or in part by the state, shall prepare a budget
 697 for the operation of the office of public guardian to be
 698 submitted to the ~~Statewide Public Guardianship Office~~ of Public
 699 and Professional Guardians. As appropriate, the ~~Statewide Public~~
 700 ~~Guardianship Office~~ of Public and Professional Guardians will
 701 include such budgetary information in the Department of Elderly
 702 Affairs' legislative budget request. The office of public

703 guardian shall be operated within the limitations of the General
 704 Appropriations Act and any other funds appropriated by the
 705 Legislature to that particular judicial circuit, subject to the
 706 provisions of chapter 216. The Department of Elderly Affairs
 707 shall make a separate and distinct request for an appropriation
 708 for the ~~Statewide Public Guardianship~~ Office of Public and
 709 Professional Guardians. However, this section may ~~shall~~ not be
 710 construed to preclude the financing of any operations of the
 711 office of the public guardian by moneys raised through local
 712 effort or through the efforts of the ~~Statewide Public~~
 713 ~~Guardianship~~ Office of Public and Professional Guardians.

714 Section 18. Section 744.707, Florida Statutes, is
 715 renumbered as section 744.2101, Florida Statutes, and amended to
 716 read:

717 744.2101 ~~744.707~~ Procedures and rules.—The public
 718 guardian, subject to the oversight of the ~~Statewide Public~~
 719 ~~Guardianship~~ Office of Public and Professional Guardians, is
 720 authorized to:

721 (1) Formulate and adopt necessary procedures to assure the
 722 efficient conduct of the affairs of the ward and general
 723 administration of the office and staff.

724 (2) Contract for services necessary to discharge the
 725 duties of the office.

726 (3) Accept the services of volunteer persons or
 727 organizations and provide reimbursement for proper and necessary
 728 expenses.

729 Section 19. Section 744.709, Florida Statutes, is
730 renumbered as section 744.2102, Florida Statutes.

731 Section 20. Section 744.708, Florida Statutes, is
732 renumbered as section 744.2103, Florida Statutes, and
733 subsections (3), (4), (5), and (7) of that section are amended,
734 to read:

735 744.2103 ~~744.708~~ Reports and standards.—

736 (3) A public guardian shall file an annual report on the
737 operations of the office of public guardian, in writing, by
738 September 1 for the preceding fiscal year with the ~~Statewide~~
739 ~~Public Guardianship~~ Office of Public and Professional Guardians,
740 which shall have responsibility for supervision of the
741 operations of the office of public guardian.

742 (4) Within 6 months of his or her appointment as guardian
743 of a ward, the public guardian shall submit to the clerk of the
744 court for placement in the ward's guardianship file and to the
745 executive director of the ~~Statewide Public Guardianship~~ Office
746 of Public and Professional Guardians a report on his or her
747 efforts to locate a family member or friend, other person, bank,
748 or corporation to act as guardian of the ward and a report on
749 the ward's potential to be restored to capacity.

750 (5) (a) Each office of public guardian shall undergo an
751 independent audit by a qualified certified public accountant at
752 least once every 2 years. A copy of the audit report shall be
753 submitted to the ~~Statewide Public Guardianship~~ Office of Public
754 and Professional Guardians.

755 (b) In addition to regular monitoring activities, the
756 ~~Statewide Public Guardianship~~ Office of Public and Professional
757 Guardians shall conduct an investigation into the practices of
758 each office of public guardian related to the managing of each
759 ward's personal affairs and property. If feasible, the
760 investigation shall be conducted in conjunction with the
761 financial audit of each office of public guardian under
762 paragraph (a).

763 (7) The ratio for professional staff to wards shall be 1
764 professional to 40 wards. The ~~Statewide Public Guardianship~~
765 Office of Public and Professional Guardians may increase or
766 decrease the ratio after consultation with the local public
767 guardian and the chief judge of the circuit court. The basis for
768 the decision to increase or decrease the prescribed ratio must
769 be included in the annual report to the secretary.

770 Section 21. Section 744.7081, Florida Statutes, is
771 renumbered as section 744.2104, Florida Statutes, and amended to
772 read:

773 744.2104 ~~744.7081~~ Access to records by the ~~Statewide~~
774 ~~Public Guardianship~~ Office of Public and Professional Guardians;
775 confidentiality.—

776 (1) Notwithstanding any other provision of law to the
777 contrary, any medical, financial, or mental health records held
778 by an agency, or the court and its agencies, or financial audits
779 prepared by the clerk of the court pursuant to s. 744.368 and
780 held by the court, which are necessary as part of an

781 investigation of a guardian as a result of a complaint filed
782 with the Office of Public and Professional Guardians to evaluate
783 the public guardianship system, to assess the need for
784 additional public guardianship, or to develop required reports,
785 shall be provided to the ~~Statewide Public Guardianship~~ Office of
786 Public and Professional Guardians upon that office's request.
787 Any confidential or exempt information provided to the ~~Statewide~~
788 ~~Public Guardianship~~ Office of Public and Professional Guardians
789 shall continue to be held confidential or exempt as otherwise
790 provided by law.

791 (2) All records held by the ~~Statewide Public Guardianship~~
792 Office of Public and Professional Guardians relating to the
793 medical, financial, or mental health of vulnerable adults as
794 defined in chapter 415, persons with a developmental disability
795 as defined in chapter 393, or persons with a mental illness as
796 defined in chapter 394, shall be confidential and exempt from s.
797 119.07(1) and s. 24(a), Art. I of the State Constitution.

798 Section 22. Section 744.7082, Florida Statutes, is
799 renumbered as section 744.2105, Florida Statutes, and
800 subsections (1) through (5) and (8) of that section are amended,
801 to read:

802 744.2105 ~~744.7082~~ Direct-support organization; definition;
803 use of property; board of directors; audit; dissolution.—

804 (1) DEFINITION.—As used in this section, the term "direct-
805 support organization" means an organization whose sole purpose
806 is to support the ~~Statewide Public Guardianship~~ Office of Public

807 and Professional Guardians and is:

808 (a) A not-for-profit corporation incorporated under
809 chapter 617 and approved by the Department of State;

810 (b) Organized and operated to conduct programs and
811 activities; to raise funds; to request and receive grants,
812 gifts, and bequests of moneys; to acquire, receive, hold,
813 invest, and administer, in its own name, securities, funds,
814 objects of value, or other property, real or personal; and to
815 make expenditures to or for the direct or indirect benefit of
816 the ~~Statewide Public Guardianship~~ Office of Public and
817 Professional Guardians; and

818 (c) Determined by the ~~Statewide Public Guardianship~~ Office
819 of Public and Professional Guardians to be consistent with the
820 goals of the office, in the best interests of the state, and in
821 accordance with the adopted goals and mission of the Department
822 of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office
823 of Public and Professional Guardians.

824 (2) CONTRACT.—The direct-support organization shall
825 operate under a written contract with the ~~Statewide Public~~
826 ~~Guardianship~~ Office of Public and Professional Guardians. The
827 written contract must provide for:

828 (a) Certification by the ~~Statewide Public Guardianship~~
829 Office of Public and Professional Guardians that the direct-
830 support organization is complying with the terms of the contract
831 and is doing so consistent with the goals and purposes of the
832 office and in the best interests of the state. This

833 certification must be made annually and reported in the official
834 minutes of a meeting of the direct-support organization.

835 (b) The reversion of moneys and property held in trust by
836 the direct-support organization:

837 1. To the ~~Statewide Public Guardianship~~ Office of Public
838 and Professional Guardians if the direct-support organization is
839 no longer approved to operate for the office;

840 2. To the ~~Statewide Public Guardianship~~ Office of Public
841 and Professional Guardians if the direct-support organization
842 ceases to exist;

843 3. To the Department of Elderly Affairs if the ~~Statewide~~
844 ~~Public Guardianship~~ Office of Public and Professional Guardians
845 ceases to exist; or

846 4. To the state if the Department of Elderly Affairs
847 ceases to exist.

848
849 The fiscal year of the direct-support organization shall begin
850 on July 1 of each year and end on June 30 of the following year.

851 (c) The disclosure of the material provisions of the
852 contract, and the distinction between the ~~Statewide Public~~
853 ~~Guardianship~~ Office of Public and Professional Guardians and the
854 direct-support organization, to donors of gifts, contributions,
855 or bequests, including such disclosure on all promotional and
856 fundraising publications.

857 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
858 shall appoint a board of directors for the direct-support

859 organization from a list of nominees submitted by the executive
860 director of the ~~Statewide Public Guardianship~~ Office of Public
861 and Professional Guardians.

862 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
863 permit, without charge, appropriate use of fixed property and
864 facilities of the department or the ~~Statewide Public~~
865 ~~Guardianship~~ Office of Public and Professional Guardians by the
866 direct-support organization. The department may prescribe any
867 condition with which the direct-support organization must comply
868 in order to use fixed property or facilities of the department
869 or the ~~Statewide Public Guardianship~~ Office of Public and
870 Professional Guardians.

871 (5) MONEYS.—Any moneys may be held in a separate
872 depository account in the name of the direct-support
873 organization and subject to the provisions of the written
874 contract with the ~~Statewide Public Guardianship~~ Office of Public
875 and Professional Guardians. Expenditures of the direct-support
876 organization shall be expressly used to support the ~~Statewide~~
877 ~~Public Guardianship~~ Office of Public and Professional Guardians.
878 The expenditures of the direct-support organization may not be
879 used for the purpose of lobbying as defined in s. 11.045.

880 (8) DISSOLUTION.—~~A~~ ~~After July 1, 2004,~~ any not-for-profit
881 corporation incorporated under chapter 617 that is determined by
882 a circuit court to be representing itself as a direct-support
883 organization created under this section, but that does not have
884 a written contract with the ~~Statewide Public Guardianship~~ Office

885 of Public and Professional Guardians in compliance with this
886 section, is considered to meet the grounds for a judicial
887 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~
888 ~~Guardianship~~ Office of Public and Professional Guardians shall
889 be the recipient for all assets held by the dissolved
890 corporation which accrued during the period that the dissolved
891 corporation represented itself as a direct-support organization
892 created under this section.

893 Section 23. Section 744.712, Florida Statutes, is
894 renumbered as section 744.2106, Florida Statutes, and amended to
895 read:

896 744.2106 ~~744.712~~ Joining Forces for Public Guardianship
897 grant program; purpose.—The Legislature establishes the Joining
898 Forces for Public Guardianship matching grant program for the
899 purpose of assisting counties to establish and fund community-
900 supported public guardianship programs. The Joining Forces for
901 Public Guardianship matching grant program shall be established
902 and administered by the ~~Statewide Public Guardianship~~ Office of
903 Public and Professional Guardians within the Department of
904 Elderly Affairs. The purpose of the program is to provide
905 startup funding to encourage communities to develop and
906 administer locally funded and supported public guardianship
907 programs to address the needs of indigent and incapacitated
908 residents.

909 (1) The ~~Statewide Public Guardianship~~ Office of Public and
910 Professional Guardians may distribute the grant funds as

911 follows:

912 (a) As initial startup funding to encourage counties that
 913 have no office of public guardian to establish an office, or as
 914 initial startup funding to open an additional office of public
 915 guardian within a county whose public guardianship needs require
 916 more than one office of public guardian.

917 (b) As support funding to operational offices of public
 918 guardian that demonstrate a necessity for funds to meet the
 919 public guardianship needs of a particular geographic area in the
 920 state which the office serves.

921 (c) To assist counties that have an operating public
 922 guardianship program but that propose to expand the geographic
 923 area or population of persons they serve, or to develop and
 924 administer innovative programs to increase access to public
 925 guardianship in this state.

926
 927 Notwithstanding this subsection, the executive director of the
 928 office may award emergency grants if he or she determines that
 929 the award is in the best interests of public guardianship in
 930 this state. Before making an emergency grant, the executive
 931 director must obtain the written approval of the Secretary of
 932 Elderly Affairs. Subsections (2), (3), and (4) do not apply to
 933 the distribution of emergency grant funds.

934 (2) One or more grants may be awarded within a county.
 935 However, a county may not receive an award that equals, or
 936 multiple awards that cumulatively equal, more than 20 percent of

937 the total amount of grant funds appropriated during any fiscal
938 year.

939 (3) If an applicant is eligible and meets the requirements
940 to receive grant funds more than once, the ~~Statewide Public~~
941 ~~Guardianship~~ Office of Public and Professional Guardians shall
942 award funds to prior awardees in the following manner:

943 (a) In the second year that grant funds are awarded, the
944 cumulative sum of the award provided to one or more applicants
945 within the same county may not exceed 75 percent of the total
946 amount of grant funds awarded within that county in year one.

947 (b) In the third year that grant funds are awarded, the
948 cumulative sum of the award provided to one or more applicants
949 within the same county may not exceed 60 percent of the total
950 amount of grant funds awarded within that county in year one.

951 (c) In the fourth year that grant funds are awarded, the
952 cumulative sum of the award provided to one or more applicants
953 within the same county may not exceed 45 percent of the total
954 amount of grant funds awarded within that county in year one.

955 (d) In the fifth year that grant funds are awarded, the
956 cumulative sum of the award provided to one or more applicants
957 within the same county may not exceed 30 percent of the total
958 amount of grant funds awarded within that county in year one.

959 (e) In the sixth year that grant funds are awarded, the
960 cumulative sum of the award provided to one or more applicants
961 within the same county may not exceed 15 percent of the total
962 amount of grant funds awarded within that county in year one.

963
 964 The ~~Statewide Public Guardianship~~ Office of Public and
 965 Professional Guardians may not award grant funds to any
 966 applicant within a county that has received grant funds for more
 967 than 6 years.

968 (4) Grant funds shall be used only to provide direct
 969 services to indigent wards, except that up to 10 percent of the
 970 grant funds may be retained by the awardee for administrative
 971 expenses.

972 (5) Implementation of the program is subject to a specific
 973 appropriation by the Legislature in the General Appropriations
 974 Act.

975 Section 24. Section 744.713, Florida Statutes, is
 976 renumbered as section 744.2107, Florida Statutes, and amended to
 977 read:

978 744.2107 ~~744.713~~ Program administration; duties of the
 979 ~~Statewide Public Guardianship~~ Office of Public and Professional
 980 Guardians.—The ~~Statewide Public Guardianship~~ Office of Public
 981 and Professional Guardians shall administer the grant program.
 982 The office shall:

983 (1) Publicize the availability of grant funds to entities
 984 that may be eligible for the funds.

985 (2) Establish an application process for submitting a
 986 grant proposal.

987 (3) Request, receive, and review proposals from applicants
 988 seeking grant funds.

989 (4) Determine the amount of grant funds each awardee may
 990 receive and award grant funds to applicants.

991 (5) Develop a monitoring process to evaluate grant
 992 awardees, which may include an annual monitoring visit to each
 993 awardee's local office.

994 (6) Ensure that persons or organizations awarded grant
 995 funds meet and adhere to the requirements of this act.

996 Section 25. Section 744.714, Florida Statutes, is
 997 renumbered as section 744.2108, Florida Statutes, and paragraph
 998 (b) of subsection (1) and paragraph (b) of subsection (2) of
 999 that section are amended, to read:

1000 744.2108 ~~744.714~~ Eligibility.—

1001 (1) Any person or organization that has not been awarded a
 1002 grant must meet all of the following conditions to be eligible
 1003 to receive a grant:

1004 (b) The applicant must have already been appointed by, or
 1005 is pending appointment by, the ~~Statewide Public Guardianship~~
 1006 Office of Public and Professional Guardians to become an office
 1007 of public guardian in this state.

1008 (2) Any person or organization that has been awarded a
 1009 grant must meet all of the following conditions to be eligible
 1010 to receive another grant:

1011 (b) The applicant must have been appointed by, or is
 1012 pending reappointment by, the ~~Statewide Public Guardianship~~
 1013 Office of Public and Professional Guardians to be an office of
 1014 public guardian in this state.

1015 Section 26. Section 744.715, Florida Statutes, is
 1016 renumbered as section 744.2109, Florida Statutes, and amended to
 1017 read:

1018 744.2109 ~~744.715~~ Grant application requirements; review
 1019 criteria; awards process.—Grant applications must be submitted
 1020 to the ~~Statewide Public Guardianship~~ Office of Public and
 1021 Professional Guardians for review and approval.

1022 (1) A grant application must contain:

1023 (a) The specific amount of funds being requested.

1024 (b) The proposed annual budget for the office of public
 1025 guardian for which the applicant is applying on behalf of,
 1026 including all sources of funding, and a detailed report of
 1027 proposed expenditures, including administrative costs.

1028 (c) The total number of wards the applicant intends to
 1029 serve during the grant period.

1030 (d) Evidence that the applicant has:

1031 1. Attempted to procure funds and has exhausted all
 1032 possible other sources of funding; or

1033 2. Procured funds from local sources, but the total amount
 1034 of the funds collected or pledged is not sufficient to meet the
 1035 need for public guardianship in the geographic area that the
 1036 applicant intends to serve.

1037 (e) An agreement or confirmation from a local funding
 1038 source, such as a county, municipality, or any other public or
 1039 private organization, that the local funding source will
 1040 contribute matching funds to the public guardianship program

1041 totaling not less than \$1 for every \$1 of grant funds awarded.
1042 For purposes of this section, an applicant may provide evidence
1043 of agreements or confirmations from multiple local funding
1044 sources showing that the local funding sources will pool their
1045 contributed matching funds to the public guardianship program
1046 for a combined total of not less than \$1 for every \$1 of grant
1047 funds awarded. In-kind contributions, such as materials,
1048 commodities, office space, or other types of facilities,
1049 personnel services, or other items as determined by rule shall
1050 be considered by the office and may be counted as part or all of
1051 the local matching funds.

1052 (f) A detailed plan describing how the office of public
1053 guardian for which the applicant is applying on behalf of will
1054 be funded in future years.

1055 (g) Any other information determined by rule as necessary
1056 to assist in evaluating grant applicants.

1057 (2) If the ~~Statewide Public Guardianship~~ Office of Public
1058 and Professional Guardians determines that an applicant meets
1059 the requirements for an award of grant funds, the office may
1060 award the applicant any amount of grant funds the executive
1061 director deems appropriate, if the amount awarded meets the
1062 requirements of this act. The office may adopt a rule allocating
1063 the maximum allowable amount of grant funds which may be
1064 expended on any ward.

1065 (3) A grant awardee must submit a new grant application
1066 for each year of additional funding.

1067 (4) (a) In the first year of the Joining Forces for Public
 1068 Guardianship program's existence, the ~~Statewide Public~~
 1069 ~~Guardianship~~ Office of Public and Professional Guardians shall
 1070 give priority in awarding grant funds to those entities that:

1071 1. Are operating as appointed offices of public guardians
 1072 in this state;

1073 2. Meet all of the requirements for being awarded a grant
 1074 under this act; and

1075 3. Demonstrate a need for grant funds during the current
 1076 fiscal year due to a loss of local funding formerly raised
 1077 through court filing fees.

1078 (b) In each fiscal year after the first year that grant
 1079 funds are distributed, the ~~Statewide Public Guardianship~~ Office
 1080 of Public and Professional Guardians may give priority to
 1081 awarding grant funds to those entities that:

1082 1. Meet all of the requirements of this section and ss.
 1083 744.2106, 744.2107, and 744.2108 ~~this act~~ for being awarded
 1084 grant funds; and

1085 2. Submit with their application an agreement or
 1086 confirmation from a local funding source, such as a county,
 1087 municipality, or any other public or private organization, that
 1088 the local funding source will contribute matching funds totaling
 1089 an amount equal to or exceeding \$2 for every \$1 of grant funds
 1090 awarded by the office. An entity may submit with its application
 1091 agreements or confirmations from multiple local funding sources
 1092 showing that the local funding sources will pool their

1093 contributed matching funds to the public guardianship program
 1094 for a combined total of not less than \$2 for every \$1 of grant
 1095 funds awarded. In-kind contributions allowable under this
 1096 section shall be evaluated by the ~~Statewide Public Guardianship~~
 1097 Office of Public and Professional Guardians and may be counted
 1098 as part or all of the local matching funds.

1099 Section 27. Subsection (3), paragraph (c) of subsection
 1100 (4), and subsections (5) and (6) of section 744.3135, Florida
 1101 Statutes, are amended to read:

1102 744.3135 Credit and criminal investigation.—

1103 (3) For professional guardians, the court and the
 1104 ~~Statewide Public Guardianship~~ Office of Public and Professional
 1105 Guardians shall accept the satisfactory completion of a criminal
 1106 history record check by any method described in this subsection.
 1107 A professional guardian satisfies the requirements of this
 1108 section by undergoing an electronic fingerprint criminal history
 1109 record check. A professional guardian may use any electronic
 1110 fingerprinting equipment used for criminal history record
 1111 checks. By October 1, 2016, the ~~Statewide Public Guardianship~~
 1112 Office of Public and Professional Guardians shall adopt a rule
 1113 detailing the acceptable methods for completing an electronic
 1114 fingerprint criminal history record check under this section.
 1115 The professional guardian shall pay the actual costs incurred by
 1116 the Federal Bureau of Investigation and the Department of Law
 1117 Enforcement for the criminal history record check. The entity
 1118 completing the record check must immediately send the results of

1119 the criminal history record check to the clerk of the court and
1120 the ~~Statewide Public Guardianship~~ Office of Public and
1121 Professional Guardians. The clerk of the court shall maintain
1122 the results in the professional guardian's file and shall make
1123 the results available to the court.

1124 (4)

1125 (c) The Department of Law Enforcement shall search all
1126 arrest fingerprints received under s. 943.051 against the
1127 fingerprints retained in the statewide automated biometric
1128 identification system under paragraph (b). Any arrest record
1129 that is identified with the fingerprints of a person described
1130 in this paragraph must be reported to the clerk of court. The
1131 clerk of court must forward any arrest record received for a
1132 professional guardian to the ~~Statewide Public Guardianship~~
1133 Office of Public and Professional Guardians within 5 days. Each
1134 professional guardian who elects to submit fingerprint
1135 information electronically shall participate in this search
1136 process by paying an annual fee to the ~~Statewide Public~~
1137 ~~Guardianship~~ Office of Public and Professional Guardians of the
1138 Department of Elderly Affairs and by informing the clerk of
1139 court and the ~~Statewide Public Guardianship~~ Office of Public and
1140 Professional Guardians of any change in the status of his or her
1141 guardianship appointment. The amount of the annual fee to be
1142 imposed for performing these searches and the procedures for the
1143 retention of professional guardian fingerprints and the
1144 dissemination of search results shall be established by rule of

1145 the Department of Law Enforcement. At least once every 5 years,
1146 the ~~Statewide Public Guardianship~~ Office of Public and
1147 Professional Guardians must request that the Department of Law
1148 Enforcement forward the fingerprints maintained under this
1149 section to the Federal Bureau of Investigation.

1150 (5) (a) A professional guardian, and each employee of a
1151 professional guardian who has a fiduciary responsibility to a
1152 ward, must complete, at his or her own expense, an investigation
1153 of his or her credit history before and at least once every 2
1154 years after the date of the guardian's registration with the
1155 ~~Statewide Public Guardianship~~ Office of Public and Professional
1156 Guardians.

1157 (b) By October 1, 2016, the ~~Statewide Public Guardianship~~
1158 Office of Public and Professional Guardians shall adopt a rule
1159 detailing the acceptable methods for completing a credit
1160 investigation under this section. If appropriate, the ~~Statewide~~
1161 ~~Public Guardianship~~ Office of Public and Professional Guardians
1162 may administer credit investigations. If the office chooses to
1163 administer the credit investigation, the office may adopt a rule
1164 setting a fee, not to exceed \$25, to reimburse the costs
1165 associated with the administration of a credit investigation.

1166 (6) The ~~Statewide Public Guardianship~~ Office of Public and
1167 Professional Guardians may inspect at any time the results of
1168 any credit or criminal history record check of a public or
1169 professional guardian conducted under this section. The office
1170 shall maintain copies of the credit or criminal history record

1171 check results in the guardian's registration file. If the
 1172 results of a credit or criminal investigation of a public or
 1173 professional guardian have not been forwarded to the ~~Statewide~~
 1174 ~~Public Guardianship~~ Office of Public and Professional Guardians
 1175 by the investigating agency, the clerk of the court shall
 1176 forward copies of the results of the investigations to the
 1177 office upon receiving them.

1178 Section 28. Section 744.701, Florida Statutes, is
 1179 repealed.

1180 Section 29. Section 744.702, Florida Statutes, is
 1181 repealed.

1182 Section 30. Section 744.7101, Florida Statutes, is
 1183 repealed.

1184 Section 31. Section 744.711, Florida Statutes, is
 1185 repealed.

1186 Section 32. Subsection (5) of section 400.148, Florida
 1187 Statutes, is amended to read:

1188 400.148 Medicaid "Up-or-Out" Quality of Care Contract
 1189 Management Program.—

1190 (5) The agency shall, jointly with the ~~Statewide Public~~
 1191 ~~Guardianship~~ Office of Public and Professional Guardians,
 1192 develop a system in the pilot project areas to identify Medicaid
 1193 recipients who are residents of a participating nursing home or
 1194 assisted living facility who have diminished ability to make
 1195 their own decisions and who do not have relatives or family
 1196 available to act as guardians in nursing homes listed on the

1197 Nursing Home Guide Watch List. The agency and the ~~Statewide~~
1198 ~~Public Guardianship~~ Office of Public and Professional Guardians
1199 shall give such residents priority for publicly funded
1200 guardianship services.

1201 Section 33. Paragraph (d) of subsection (3) of section
1202 744.331, Florida Statutes, is amended to read:

1203 744.331 Procedures to determine incapacity.—

1204 (3) EXAMINING COMMITTEE.—

1205 (d) A member of an examining committee must complete a
1206 minimum of 4 hours of initial training. The person must complete
1207 2 hours of continuing education during each 2-year period after
1208 the initial training. The initial training and continuing
1209 education program must be developed under the supervision of the
1210 ~~Statewide Public Guardianship~~ Office of Public and Professional
1211 Guardians, in consultation with the Florida Conference of
1212 Circuit Court Judges; the Elder Law and the Real Property,
1213 Probate and Trust Law sections of The Florida Bar; and the
1214 Florida State Guardianship Association; ~~and the Florida~~
1215 ~~Guardianship Foundation~~. The court may waive the initial
1216 training requirement for a person who has served for not less
1217 than 5 years on examining committees. If a person wishes to
1218 obtain his or her continuing education on the Internet or by
1219 watching a video course, the person must first obtain the
1220 approval of the chief judge before taking an Internet or video
1221 course.

1222 Section 34. Paragraph (a) of subsection (1) of section

1223 20.415, Florida Statutes, is amended to read:

1224 20.415 Department of Elderly Affairs; trust funds.—The
 1225 following trust funds shall be administered by the Department of
 1226 Elderly Affairs:

1227 (1) Administrative Trust Fund.

1228 (a) Funds to be credited to and uses of the trust fund
 1229 shall be administered in accordance with ss. 215.32, 744.534,
 1230 and 744.2001 ~~744.7021~~.

1231 Section 35. Paragraph (e) of subsection (2) of section
 1232 415.1102, Florida Statutes, is amended to read:

1233 415.1102 Adult protection teams.—

1234 (2) Such teams may be composed of, but need not be limited
 1235 to:

1236 (e) Public and professional guardians as described in part
 1237 II ~~IX~~ of chapter 744.

1238 Section 36. Paragraph (a) of subsection (7) of section
 1239 744.309, Florida Statutes, is amended to read:

1240 744.309 Who may be appointed guardian of a resident ward.—

1241 (7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate
 1242 guardian existing under the laws of this state is qualified to
 1243 act as guardian of a ward if the entity is qualified to do
 1244 business in the state, is wholly owned by the person who is the
 1245 circuit's public guardian in the circuit where the corporate
 1246 guardian is appointed, has met the registration requirements of
 1247 s. 744.2002 ~~s. 744.1083~~, and posts and maintains a bond or
 1248 insurance policy under paragraph (a).

1249 (a) The for-profit corporate guardian must meet one of the
 1250 following requirements:

1251 1. Post and maintain a blanket fiduciary bond of at least
 1252 \$250,000 with the clerk of the circuit court in the county in
 1253 which the corporate guardian has its principal place of
 1254 business. The corporate guardian shall provide proof of the
 1255 fiduciary bond to the clerks of each additional circuit court in
 1256 which he or she is serving as a guardian. The bond must cover
 1257 all wards for whom the corporation has been appointed as a
 1258 guardian at any given time. The liability of the provider of the
 1259 bond is limited to the face value of the bond, regardless of the
 1260 number of wards for whom the corporation is acting as a
 1261 guardian. The terms of the bond must cover the acts or omissions
 1262 of each agent or employee of the corporation who has direct
 1263 contact with the ward or access to the assets of the
 1264 guardianship. The bond must be payable to the Governor and his
 1265 or her successors in office and be conditioned on the faithful
 1266 performance of all duties of a guardian under this chapter. The
 1267 bond is in lieu of and not in addition to the bond required
 1268 under s. 744.2003 ~~s. 744.1085~~ but is in addition to any bonds
 1269 required under s. 744.351. The expenses incurred to satisfy the
 1270 bonding requirements of this section may not be paid with the
 1271 assets of any ward; or

1272 2. Maintain a liability insurance policy that covers any
 1273 losses sustained by the guardianship caused by errors,
 1274 omissions, or any intentional misconduct committed by the

1275 corporation's officers or agents. The policy must cover all
1276 wards for whom the corporation is acting as a guardian for
1277 losses up to \$250,000. The terms of the policy must cover acts
1278 or omissions of each agent or employee of the corporation who
1279 has direct contact with the ward or access to the assets of the
1280 guardianship. The corporate guardian shall provide proof of the
1281 policy to the clerk of each circuit court in which he or she is
1282 serving as a guardian.

1283 Section 37. Section 744.524, Florida Statutes, is amended
1284 to read:

1285 744.524 Termination of guardianship on change of domicile
1286 of resident ward.—When the domicile of a resident ward has
1287 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
1288 court having jurisdiction over the ward at the ward's new
1289 domicile has appointed a guardian and that guardian has
1290 qualified and posted a bond in an amount required by the foreign
1291 court, the guardian in this state may file her or his final
1292 report and close the guardianship in this state. The guardian of
1293 the property in this state shall cause a notice to be published
1294 once a week for 2 consecutive weeks, in a newspaper of general
1295 circulation published in the county, that she or he has filed
1296 her or his accounting and will apply for discharge on a day
1297 certain and that jurisdiction of the ward will be transferred to
1298 the state of foreign jurisdiction. If an objection is filed to
1299 the termination of the guardianship in this state, the court
1300 shall hear the objection and enter an order either sustaining or

1301 | overruling the objection. Upon the disposition of all objections
1302 | filed, or if no objection is filed, final settlement shall be
1303 | made by the Florida guardian. On proof that the remaining
1304 | property in the guardianship has been received by the foreign
1305 | guardian, the guardian of the property in this state shall be
1306 | discharged. The entry of the order terminating the guardianship
1307 | in this state shall not exonerate the guardian or the guardian's
1308 | surety from any liability previously incurred.

1309 | Section 38. For the 2016-2017 fiscal year, the sums of
1310 | \$698,153 in recurring funds and \$123,517 in nonrecurring funds
1311 | are appropriated from the General Revenue Fund to the Department
1312 | of Eldery Affairs, and six full-time equivalent positions with
1313 | associated salary rate of 242,345 are authorized, to implement
1314 | the requirements of this act.

1315 | Section 39. This act shall take effect upon becoming a
1316 | law.